

**MARCH 7, 2006 MINUTES**  
**REGULAR MEETING - CITY COUNCIL - CITY OF NEWTON**

The Newton City Council held a regular meeting at 7:00 p.m. on Tuesday, March 7, 2006 in the Council Chambers at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Tom Rowe, Anne Stedman, Al Gaither, Tom Dixon, Mayor Pro Tern Roy Johnson, City Attorney Larry Pitts, City Manager Ed Burchins, Assistant City Manager Glenn J. Pattishall, and City Clerk Beunice "Bootsie" Roberts.

**Item 1**            **Call to Order:**

Mayor Mullinax called the meeting to order and welcomed citizens in the audience.

**Item 2**            **Opening — Council Member Anne Stedman:**

Council Member Anne Stedman gave the invocation and led the Pledge of Allegiance.

**Item 3**            **Approval of minutes of the January 18, 2006 regular meeting and the February 2 and February 3, 2006 Mayor and City Council Annual Planning Work Shop minutes:**

A motion was made by Council Member Rowe, seconded by Mayor Pro Tern Johnson, and unanimously adopted that the January 18, 2006 regular meeting minutes and the February 2<sup>nd</sup> and February 3<sup>rd</sup> Mayor and City Council's Annual Planning Work Shop minutes be approved as submitted.

**Item 4**            **Consideration of Approval of Consent Agenda Item:**

A motion was made by Council Member Dixon, seconded by Council Member Gaither, and unanimously adopted that the following items on the Consent Agenda be approved.

**A.    Tax Releases**

<b>Tax Year</b>	<b>Tax Release Number</b>	<b>Name</b>	<b>Reason</b>	<b>Amount of Release</b>
2005	37	Rager, Bernard	Property traded	\$12.32
in 2004				

**B.    Tax Refunds**

<b>Tax Year</b>	<b>Tax Refund Number</b>	<b>Name</b>	<b>Reason</b>	<b>Amount of Release</b>
2004	2	Holland, James B. & Barbara Y.	Property taxed in wrong jurisdiction	\$7.30
2003	3	Holland, James B. & Barbara Y.	Property taxed in wrong jurisdiction	\$7.88
2002	4	Holland, James B. & Barbara Y.	Property taxed in wrong jurisdiction	\$9.17

**C.    Sewer Adjustments**

<b>Account No.</b>	<b>Name</b>	<b>Service Address</b>	<b>Adjustment Period</b>	<b>Amount</b>
57000360	Gabriel Gomez	658 E. 1st St.	November	\$102.07
59000960	Griggs Ford	406 E. 2 <sup>nd</sup> St.	Sept. Oct. Nov.	\$ 56.04
46000180	Maximina Ramos	211 Kilborne Dr.	Oct. Nov. Dec.	\$209.45
32000660	Allen Sipe	1508 N. Deal. Ave.	Nov. and Dec.	\$ 73.75

46000300	Anthony Jaeger	1115 Sandust Dr.	Nov. and Dec.	\$ 37.77
23000640	John Greene	408 W. 6 <sup>th</sup> St.	December	\$ 33.04

**D. Consideration of audit contract to Lowdermilk, Church & Co.L.L.P. for fiscal year 2005-2006 (attached)**

**E. Wastewater System Annual Report (attached)**

**Item 5 Presentation by Dr. Matt Wasson with the Appalachian Voices, supporting Clean Air in North Carolina and requesting adoption of support:**

Mayor Mullinax introduced Dr. Matt Wasson and asked him to make his presentation. Dr. Wasson thanked the Mayor and Council for the opportunity to come before the Council to solicit by resolution the support from the City of Newton to join other cities around the State in informing the officials in Washington, DC that North Carolina knows pollution is a problem in North Carolina and that we are doing everything possible to make things better.

Dr. Wasson stated that the Appalachian Voices have received resolutions from the City of Hickory and Catawba County and will ask other cities in the county to support their efforts for cleaner air in North Carolina.

Mayor Pro Tern Johnson stated that North Carolina has some major problems with air pollution and that he is on a committee that is dealing with a non-attainment status in air pollution in Catawba County. He stated that we need to do all we can to make the efforts for cleaner air stronger and not weaken it in any way.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Rowe, and unanimously adopted a resolution to support Clean Air in North Carolina.

**RESOLUTION # 1-2006**

**Clean Air Resolution**

WHEREAS, clean air is vital to the health and well-being of all of North Carolina's citizens, especially our children and senior citizens;

WHEREAS, the natural beauty of our mountain, coastal, and forested landscapes is a source of pride and inspiration to the citizens of North Carolina and millions of other Americans who visit our state every year;

WHEREAS, the health of our agriculture, forestry, and tourism industries as well as our recreational and commercial fisheries are important to the economy of North Carolina;

WHEREAS, air pollution degrades our scenery, harms our health, compromises our commercial and recreational fisheries, and damages our forests, creeks and farms;

WHEREAS, in 2002, North Carolina's citizens, business leaders, electric utilities and electric officials established a clear, bipartisan, and nearly unanimous agreement to improve our air quality by passing the Clean Smokestacks Act;

WHEREAS, this legislation will, by 2013, limit the harmful effects of air pollution from our coal-fired power plants by reducing emissions of nitrogen oxides and sulfur dioxides by roughly 78% and 73% respectively;

WHEREAS, a large portion of North Carolina's air pollution originates from facilities operated by utilities in neighboring states that are not subject to our Clean Smokestacks Act;

WHEREAS, bills may soon be considered by Congress that would relax utilities' requirements to reduce pollution that were set forth in the 1990 amendments to the federal Clean Air Act and that would also undermine North Carolina's legal authority to seek reductions in pollution that originates upwind states;

WHEREAS, relaxing the pollution standards for other states, particularly upwind states, only harms North Carolina's citizens, businesses and electric utilities and could jeopardize the progress our own state is making toward improving the quality of North Carolina's air;

WHEREAS, all North Carolinians, including our elected members of Congress, should work together to uphold our Clean Smokestacks Act and reduce air pollution in our state;

THEREFORE, BE IT RESOLVED, that the City of Newton respectfully urges the honorable members of North Carolina's Congressional delegation to support the health, economy and environment of our city and state by working to reduce pollution that originates beyond our state's borders. We urge support for national legislation that would reduce pollution as quickly and to a similar extent as is required by our own Clean Smokestacks Act. Please oppose any legislation that would weaken pollution standards for neighboring states, as set forth in the Clean Air Act and its amendments of 1990, or that would undercut or delay North Carolina's authority to seek reductions in the portion of our pollution that originates in upwind states.

Adopted this the 7th day of March 2006.

Robert A. Mullinax, Mayor

Attest:

Beunice R. Roberts, City Clerk

**Item 6**                    **Comments from the public: (Persons wanting to make a public comment on non-agenda items are requested to sign in with the City Clerk prior to the meeting:**

**Presentation of Main Street Champion Award to the City of Newton**

Mr. Glenn J. Pattishall introduced Mrs. Meg Dees and asked her to make the presentation.

Mrs. Dees stated that on January 26th the North Carolina Main Street Center held its annual Awards Program in Salisbury, NC and was pleased to recognize Newton Municipal Government as a Main Street Champion.

Mrs. Dees stated that the City of Newton has been a supporter of the Downtown Newton Development Association and economic development in downtown Newton for a many years. She stated that the city's initial support included the implementation of a municipal service district and coordinating a tax base in 1994 to fund the Downtown Newton Development Association.

Mrs. Dees stated that the city has supported the efforts of the DNDA through its annual events, NewtonFest and Christmas in Downtown. Mrs. Dees also thanked the city management and several departments of the City for assisting the DNDA and helping to make its accomplishments successful.

Mrs. Dees proudly presented the plaque to Mayor Mullinax and he accepted saying that the Downtown Newton Development Association revitalization program is a work in progress and it takes a coordinated effort to make it successful.

Mayor Mullinax thanked the staff of the DNDA and the board members for their tireless efforts to make the quality of life good for the citizens of Newton.

**Item 7**                    **Old Business:**

**A.                    Consideration of awarding bid and amend budget ordinance for the Electric Distribution System Conversion Capital Project**

Mayor Mullinax stated that this project is a start of a conversion system that the Council talked about and embraced during the 2004 Work Shop and asked City Manager Burchins to report.

City Manager Burchins gave an overview of the 10-year plan of the City's electric system, stating that the system growing and the need to construct a delivery point in the near future, that we are

increasing our load, and that the system is nearing its life expectancy.

City Manager Burchins stated that it is critical that the City provide reliable power for its citizens.

City Manager Burchins stated that the Phase I Project Ordinance is grouped with several small projects to see how far the work will go and that an analysis was done to determine which portions would be bid out, which work would be done by city employees, and the cost of materials.

City Manager Burchins recommended the Council award the bid to Williams Electric Company to start phase I and to approve the budget ordinance to establish the capital project.

Marty Wilson, Director of Public Works and Public Utilities, stated that all the projects have been identified through the distribution study and that the staff was trying to work within the budget.

Mr. Wilson gave a brief overview of the maps provided showing the electric distribution project and several questions were asked by the Council on burying electrical lines and the expense involved.

Mr. Wilson stated that some lines would be buried and some would not.

A motion was made by Mayor Pro Tem Johnson, seconded by Council Member Dixon and unanimously adopted to award the bid to Williams Electric Company for \$173,204.18 for Phase I of the Electric Distribution Conversion Project.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Gaither, and unanimously adopted to amend the budget ordinance establishing a Capital Project for the Electric Distribution Conversion for \$1,021,000.

#### **ORDINANCE #2006-4 ATTACHED**

#### **B. Consideration of amending the 2006 City Council Meetings Schedule**

City Manager Burchins stated that during the annual Mayor and City Council Work Shop, Council Member Dixon recommended that the day of the Council meetings be changed to the same day in each month to make the scheduling easier.

A motion was made by Council Member Dixon, seconded by Mayor Pro Tem Johnson, and unanimously adopted to amend the 2006 Mayor and City Council Meetings Schedule to change the days to the first Tuesday and third Tuesday of each month effective July 1, 2006.

#### **NEWTON CITY COUNCIL 2006 MEETING SCHEDULE**

January 3, 2006

January 18, 2006

February 7, 2006

February 22, 2006

March 7, 2006

March 22, 2006

April 4, 2006

April 19, 2006

May 2, 2006

May 17, 200

June 6, 2006

June 21, 2006

July 11, 2006

August 1, 2006

**August 22, (fourth Tuesday due to Reunion activities)**

September 5, 2006

September 19, 2006

October 3, 2006

October 17, 2006

November 7, 2006

**November 21, 2006 (third Tuesday due to Thanksgiving schedule)**

December 12, 2006

**C. Consideration of resolution authorizing the City Attorney to petition court for order to cause compliance — Smithey's Building**

City Manager Burchins stated that the City has been dealing with this issue for two years. He stated that Catawba County has been requested to work on the City's behalf to condemn the building.

City Manager Burchins stated the staff has been also working with the owners of the building, Peoples Bank, in trying to find a user for the building, but no success with that venture came about.

Mr. Glenn Pattishall, Planning Director, stated that in November 2005, the City Council issued an order to the owner to cause the building to comply with the city code by February 1, 2006 and nothing has been done to date.

Mr. Pattishall stated that a resolution is being submitted to Council directing the City Attorney to proceed with obtaining a court order to cause the structure to comply with City codes.

Mr. Pattishall stated that if something is not done, that the structure will become a fire and health hazard in the downtown area.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Gaither, and unanimously adopted to approve a resolution authorizing the City Attorney to petition court for order to cause compliance on the Smithey building.

**Resolution #2-2006**

WHEREAS, pursuant to the provisions of North Carolina General Statute 160A-429, the Catawba County Code Enforcement Official Issued an order dated August 23, 2005, ordering the owner and party in interest to remedy defective conditions existing in a building located at 200 and 202 N. Main Avenue, Newton, NC by repairing or demolishing the building: and

WHEREAS, On November 16, 2005 the Newton City Council held a hearing pursuant to North Carolina General Statute 160A-430 and affirmed the order of the Catawba County Code Enforcement Official as modified by deleting paragraph #3 of said order and inserting a new paragraph #3 to read as follows: 3. That the owner on or before the 1st day of February, 2006 remedy the defective conditions by repairing or demolishing the building: and

WHEREAS, 1<sup>st</sup> day of February, 2006 has passed and the order of the Catawba County Code Enforcement Official as affirmed and modified on November 16, 2005 by the Newton City Council has not been complied with;

NOW, THEREFORE, BE IT RESOLVED that the Newton City Council authorizes and directs the City Attorney to proceed with legal action pursuant to North Carolina General Statute 1 60A-432 and 1 60A-1 75 to seek an injunction/order of abatement to repair or remove the structure located at 200 and 202 N. Main Avenue, and any other legal remedies available under law as he deems necessary.

Robert A. Mullinax, Mayor

Attest:  
Beunice R. Roberts, City Clerk

**Item 8 NEW BUSINESS:**

**A. Consideration of City Policy for Disposal of Surplus Personal Property**

Mr. Johnny Isenhour, Purchasing Agent for the City of Newton, reported that the staff would like the Council to consider authorizing the increase in the City Manager's authority to dispose of any item or group of items from \$5,000 to \$30,000.

Mr. Isenhour also recommended to the Council to approve the contract of GovDeals for the purpose of providing online auction services to dispose of surplus property.

Mr. Isenhour stated that using GovDeals would produce higher prices, increase number of bids, reduce warehouse space, allow continuous revenue stream, and produce positive cash flow.

Mr. Isenhour stated that once the merchandise becomes available and approved by the Manager for disposal, the staff can place the merchandise on GovDeals and it can become disposed of immediately.

Mr. Burchins stated that this new process is in accordance with state laws.

Council Member Dixon asked what type of items can be placed on GovDeals.

Mr. Isenhour stated that such items as trucks, cars, computers, etc. can be placed on with GovDeals.

Council Member Dellinger stated that the Council needs to know which items are being placed on GovDeals even if the Manager has the authority to approve the items for sale.

Council Member Dellinger stated that in the past it was always a courtesy to give the Council a list of what was being sold whether it was \$15 or more or to know that the items were being sold and no one would wonder what happened to the items.

City Manager Burchins stated that this was a reasonable request from Council

Mayor Mullinax stated that the listing could be presented like the tax releases, etc. under the consent agenda.

Mr. Isenhour stated that there would be no problem to let the Council know what items are placed on GovDeals process and a system could be worked out.

Mr. Isenhour stated that as a rule, each department will also have first choice to know what the items are before they are offered for sale.

Council Member Dixon asked Mr. Isenhour to explain why the request to increase to \$30,000 if we are selling items less than \$5,000.

Mr. Isenhour stated that there are times when items will be sold in groups such as cars and a grouping could bring in up to \$30,000.

Mayor Pro Tern Johnson stated that this is a way that the warehouse would not be full all year long, that the items could be moved out.

Council Member Gaither asked how the price is determined for the items.

City Manager Burchins stated that an individual could not just buy the items, that there is a formal GovDeals process that they would have to go through.

Council Member Gaither asked why did this process need to come back before the Council for approval if the GovDeals process is much easier and a way to make more money.

Council Member Dellinger stated that all he was asking is that the Council knows what is being sold and that would not hold up the process of the sale.

Mayor Mullinax stated that the Council be given a list of surplus items as a means of information and that it didn't have to be under an item on an agenda.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Rowe, and unanimously adopted to approve to give the City Manager the authority to dispose of any item or group of items from \$5,000 to \$30,000.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Stedman, and unanimously adopted to approve the contract with GovDeals for the purpose of providing online auction services to dispose of surplus property.

Mr. Isenhour highlighted and shared a listing of cities and counties around the State which are successfully using the GovDeals process.

### **RESOLUTION #3-2006**

#### **A RESOLUTION TO DISPOSE OF PERSONAL PROPERTY VALUED AT LESS THAN \$30,000 AND ACCEPTANCE OF A CONTRACT WITH GOVDEALS, INC FOR THE ONLINE DISPOSAL OF SURPLUS PROPERTY**

WHEREAS, the City of Newton, from time to time, has personal property which is no longer needed or required;

THAT WHEREAS, effective July 27, 2005, G.S. 160A-266(c) has been amended to increase the allowable value of an item or group of items from \$5,000 to \$30,000; and by deleting the direct reporting requirement to City Council:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, North Carolina in Regular Session assembled this 7th day of March, 2006 as follows:

- (1) The City Manager or his/her designated official is authorized to declare as surplus personal property owned by the City of Newton and valued at less than \$30,000 and to convey title of the property on behalf of the City.
- (2) The City Manager or his/her designated official may dispose of any such surplus personal property by any means which he or she judges is reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in Article 12 of N. C. Gen. Statute Chapter 1 60A. Such sale may be public or private, and with or without notice and minimum waiting period.
- (3) The City Manager or his/her designated official shall keep a record of all property sold under this section and that record shall generally describe the property sold or exchanged, to whom it was sold or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.
- (4) Section 4, This Resolution is enacted pursuant to the provisions of North Carolina General Statute § 160A-266 (c). and,
- (5) Whereas the North Carolina League of Municipalities has endorsed and recommended a strategic partnership with GovDeals, Inc for the purpose of providing an online method for the disposal of surplus property, the City Council of the City of Newton hereby authorizes the City Manager to contract with GovDeals, Inc for the purpose of the disposal of surplus personal property owned by the City of Newton.
- (6) This resolution shall become effective upon its adoption and approval

Passed and adopted this 7th day of March, 2006.

THE CITY OF NEWTON, NORTH CAROLINA  
Robert A. Mullinax, Mayor

Attest:  
Beunice R. Roberts, City Clerk

**B. Consideration of a Performance Contract Program**

City Manager Burchins gave an overview of how City staff has been working with representatives from ElectriCities and TAC to determine the best ways to implement numerous projects that will benefit the city and make the best use of city funds.

Mr. Burchins introduced Ms. Kristin Daggett from TAC (Tour Andover Controls) and Gregg Welch from ElectriCities of North Carolina who have been working with City Staff on the performance contracting process.

Ms. Daggett gave an overview of the Performance Contracting process stating that cities use their services to implement projects that will benefit the city and make the best use of their funds.

Mr. Welch stated that ElectriCities chooses the best business models for their cities and felt that TAC was the best company to work with their member cities.

Council Member Dellinger stated that we have had several studies done in the past that seemed to address some of these issues such as upgrading our main distribution system, hired an engineering firm to see where we are losing water and felt that the City should take note on what we've already done and what the city's possibilities are before the city enters into another contract.

After a brief discussion on the opinion from the representatives from ElectriCities and TAC on the best use of funds and best overall solution for Newton, the Mayor thanked the representatives for sharing the concept of the Performance Contract Program and stated that the Council would use this presentation for information purposes and would like to discuss it further with the City Manager and City Council. No action was taken.

**C. Consideration of Agreement with NCDOT for rail crossings A. Street and 11th Street**

City Manager Burchins stated that the City has received numerous requests from NCDOT to consider a joint agreement between the City and NCDOT for railway highway grade crossing signals and gates at A Street and 11th Street crossings with the Norfolk Southern tracks.

City Manager Burchins stated that the staff has investigated these crossings and felt there was no need for signalization at either crossing due to the low number of trains per day and a lack of accident data that indicated that a serious traffic hazard was present at either crossing and recommends that the Council not execute the agreement.

City Manager Burchins stated that the city staff is making improvements on municipal streets to enhance the area and felt that the City did not need to participate in this project.

Mayor Pro Tern Johnson stated that there has not been any major accidents at these crossings and that the City was doing all they could do with improvements there. If NCDOT wants to make further improvements, they can.

A motion was made by Council Member Rowe, seconded by Council Member Gaither, and unanimously adopted to decline to enter into the agreement with NCDOT.

**D. Consideration of awarding id for Culvert Replacement on Eastmont Avenue and adopting a budget ordinance**

City Manager Burchins reported that in November 2005, the staff requested funds for engineering and design services to repair a culvert on Eastmont Avenue which was damaged by heavy rain in October 2005.

City Manager Burchins stated that the repairs will replace a water main that runs through the existing culvert and several other improvements such as a sewer line, the road and pipe replacements related to this project.

Mr. Marty Wilson introduced, Kirk Gavel, the engineer for the project who was available for



answers to questions from the Council.

Mr. Wilson stated that three bids were received for the project and that the bid from Ronnie Turner Construction Company submitted the lowest bid.

Mr. Wilson stated that they did not know how much it was going to cost, but they had some thought based on looking at it.

Council Member Dixon asked if the engineer and staff thought the bid was a good bid.

Mr. Gavel stated that based on the improvements required, he felt that the bid was very reasonable.

Council Members Dellinger and Gaither asked where the funds were coming from. City Manager Burchins stated that the funds would be borrowed for the project.

A motion was made by Council Member Gaither, seconded by Council Member Rowe and unanimously adopted to approve the bid of Ronnie Turner Construction Company for \$222,306.20 for the construction of Eastmont Avenue Culvert Replacement and consensus of the Council for the City Manager to bring a financing recommendation to the Council at a future meeting.

## **ITEM 9 CITY MANAGER'S REPORT**

### **A. Report on Police Department Expansion-2nd Floor-City Hall**

Stan Winstead, Architect for the Police Department expansion project, reviewed a designed developed for the Police Department to be located on the second floor of the City Hall building which he felt was functional for the department, showing what could be accomplished once the expansion was completed.

A brief discussion was held on the time frame, consolidating other police departments, and what the next step would be after this presentation.

Mr. Winstead stated that if the gives approval tonight, that the next step would be to work on the construction documents for an engineer to look at the electrical, plumbing, permits, mechanical, and draw up the plans. Mr. Winstead stated that it would take the next 60 to 90 days and then the city will advertise for bids.

Council Member Dixon stated that he all of the police department offices would go upstairs, consolidating outside city hall.

Mr. Winstead stated that this would bring offices from downtown here in the city hall building which would the most cost effective way to accommodate the Police Department. This expansion allows free space to help make the city hall facility work more efficiently.

It was the consensus of the Mayor and Council to proceed with the expansion process.

### **B. Report on purchasing new computer hardware (server)**

City Manager Burchins reported that during the Fiscal Year 2005-2006 budget process, the amount of \$125,000 was requested for various technology programs and server upgrades.

City Manager Burchins stated that another discussion on the server upgrade to handle some of the storage needs for the City was held during the recent planning work shop.

City Manager Burchins stated that funds were frozen for this project and requested that the Council release the funds so that the staff may go forward with the bidding and purchasing of the server for the technology system.

It was the consensus of the Mayor and Council to proceed with the technology system/server upgrade project.

**Item 10**      **Questions from Mayor and Council**

Mayor Mullinax asked the status of the Greenway Project.

Mr. Pattishall stated that there are two phases of the Greenway Project. Phase One runs from West 7<sup>th</sup> **Street** to Radio Station Road, and when we have good weather, we can proceed with construction.

Mr. Pattishall stated that the second phase runs from Radio Station Road, south to Hwy. 10 and is primarily funded with an enhancement grant from NCDOT. He stated that this portion is pending subject to right-of-way to be certified, designs approval from NCDOT, bidding on materials.

Mayor Mullinax stated that the Council needed to have a Closed Session to discuss economic development.

A motion was made by Mayor Pro Tern Johnson, seconded by Council Member Rowe, and unanimously adopted to go into Closed Session to discuss economic development.

After the Closed Session, Mayor Mullinax called the Council meeting back into session and stated no action was to be taken on the matters discussed.

**Item 11**      **Adjournment**

There being no further business, a motion was made by Mayor Pro Tern Johnson, seconded by Council Member Dixon, and unanimously adopted that the meeting be adjourned.

Respectfully submitted by,

Robert A. Mullinax, Mayor

Beunice "Bootsie" R. Roberts, City Clerk